United Nations S/AC.52/2011/15

Security Council

Distr.: General
23 June 2011
English
Original: French

Security Council Committee established pursuant to resolution 1970 (2011) concerning the Libyan Arab Jamahiriya

Note verbale dated 20 June 2011 from the Permanent Mission of Switzerland to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Switzerland to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1970 (2011) concerning the Libyan Arab Jamahiriya and has the honour to transmit to him herewith the report of Switzerland under Security Council resolutions 1970 (2011) and 1973 (2011) (see annex).

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Annex to the note verbale dated 20 June 2011 from the Permanent Mission of Switzerland to the United Nations addressed to the Chairman of the Committee

Report of Switzerland under Security Council resolutions 1970 (2011) and 1973 (2011)

Pursuant to paragraph 25 of resolution 1970 (2011) of 26 February 2011, Switzerland has the honour to provide the Security Council Committee established pursuant to resolution 1970 (2011) with the following information on implementation of the measures set out in paragraphs 9, 10, 15 and 17 thereof.

On 30 March 2011, the Swiss Federal Council (the Government) adopted the Ordinance instituting measures against Libya (hereinafter "the Ordinance")* with a view to application of the United Nations sanctions established in resolutions 1970 (2011) and 1973 (2011). The legal basis for the Ordinance is the Federal Act of 22 March 2002 concerning the application of international sanctions (the Embargo Act).

Paragraphs 9 and 10 of resolution 1970 (2011): Arms embargo

These paragraphs are implemented by article 1 of the Ordinance.

Article 1 (1) prohibits the sale, supply, export or transit of military equipment of all types to Libya or for use in Libya.

Article 1 (3) prohibits the provision of services of any kind, including financial services, brokerage services and technical training related to military equipment, as well as the provision of armed mercenaries.

Lastly, article 1 (4) prohibits the purchase, import, transit, transport and brokerage of military equipment from Libya.

Paragraph 15 of resolution 1970 (2011): Travel ban

This paragraph is implemented by article 4 of the Ordinance.

Article 4 (1) prohibits the entry into or transit through Switzerland of the individuals listed in annexes 4 and 5 of the Ordinance. Annex 4 contains the list of individuals subject to sanctions under annex I of resolution 1970 (2011) and annex I of resolution 1973 (2011).

Paragraph 17 of resolution 1970 (2011): Asset freeze

This paragraph is implemented by article 2 of the Ordinance.

Article 2 (1) provides that funds and economic resources owned or controlled by the individuals, enterprises and entities listed in annexes 2 and 3 of the Ordinance shall be frozen. Annex 2 contains the list of individuals and entities subject to financial sanctions under annex II of resolution 1970 (2011) and annex II of resolution 1973 (2011).

* Annexes are on file with the Secretariat and are available for consultation.

Article 2 (2) prohibits the provision of funds to individuals, enterprises and entities subject to the asset freeze and stipulates that funds and economic resources shall not be made directly or indirectly available to them.

Lastly, article 8 of the Ordinance establishes the obligation to declare frozen assets to the competent Swiss authorities.

Other measures

The flight ban established in paragraph 17 of resolution 1973 (2011) is implemented by article 5 of the Ordinance.

In addition to the measures described above, Switzerland has taken further coercive measures against Libya. The sale, supply, export and transit of goods which might be used for internal repression have been prohibited (article 1 (2) and annex 1 of the Ordinance). In addition, the travel ban and financial sanctions have been applied to the additional individuals and entities mentioned in annexes 3 and 5 of the Ordinance. These further coercive measures are identical to those taken by the European Union.

As at 1 June 2011, Libyan assets valued at approximately 650 million Swiss francs were frozen in Switzerland.

United Nations S/AC.52/2011/16

Security Council

Distr.: General
24 June 2011

Original: English

Security Council Committee established pursuant to resolution 1970 (2011) concerning the Libyan Arab Jamahiriya

Note verbale dated 23 June 2011 from the Permanent Mission of Portugal to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Portugal to the United Nations presents its compliments to the Chair of the Committee established pursuant to resolution 1970 (2011) concerning the Libyan Arab Jamahiriya and has the honour to transmit herewith the report of the Government of Portugal on measures taken to implement resolution 1970 (2011) (see annex).

11-43427 (E) 090811

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Annex to the note verbale dated 23 June 2011 from the Permanent Mission of Portugal to the United Nations addressed to the Chair of the Committee

Report of Portugal on the implementation of Security Council resolution 1970 (2011)

In accordance with paragraph 25 of Security Council resolution 1970 (2011), Portugal has the honour to inform the Security Council Committee established pursuant to resolution 1970 (2011) concerning the Libyan Arab Jamahiriya on the measures adopted at the national level to implement the sanctions imposed on the Libyan Arab Jamahiriya.

1. Measures adopted by the European Union

Portugal and the other members of the European Union have jointly implemented the restrictive measures against the Libyan Arab Jamahiriya imposed by the Security Council in resolutions 1970 (2011) and 1973 (2011) by taking the following common measures:[1]

- Council Decision 2011/137/CFSP of 28 February

The Council Decision sets out the European Union's commitment to implement all the measures contained in resolution 1970 (2011) and provides the basis for European Union-specific accompanying measures within the scope of the resolution, notably:

- Embargo on equipment which might be used for internal repression.
- Prior information requirement on cargoes to and from Libya.
- Autonomous designations under the visa ban and the asset freeze, to be decided by the Council of the European Union, of persons and entities involved in or complicit in ordering, controlling, or otherwise directing, the commission of serious human rights abuses against persons in Libya, including by being involved in or complicit in planning, commanding, ordering or conducting attacks, in violation of international law, including aerial bombardments, on civilian populations and facilities, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them.

- Council regulation (EU) No. 204/2011 of 2 March 2011 concerning restrictive measures in view of the situation in Libya

In accordance with resolution 1970 (2011) and Council Decision 2011/137/CFSP, the Council adopted a regulation implementing the measures provided for in Council Decision 2011/137/CFSP, which fall under the competence of the Union.

[1] All common measures are published in the *Official Journal of the European Union*, which can be consulted through the following web pages: http://eur-lex.europa.eu/JOIndex.do?ihmlang=en (published issues) and http://eur-lex.europa.eu/RECH_menu.do?ihmlang=en (search form).

- Council Decision 2011/178/CFSP of 23 March 2011 amending Decision 2011/137/CFSP concerning restrictive measures in view of the situation in Libya

The Council adopted a Decision amending Council Decision 2011/137/CFSP of 28 February, pursuant to resolution 1973 (2011).

- Council Regulation (EU) No. 296/2011 of 25 March 2011 amending Regulation (EU) No. 204/2011 concerning restrictive measures in view of the situation in Libya

In accordance with resolution 1973 (2011) and Council Decision 2011/178/CFSP, the Council adopted a Regulation implementing the measures provided for in Council Decision 2011/178/CFSP which fall under the competence of the Union.

- Council Implementing Decision 2011/236/CFSP of 12 April 2011 implementing Decision 2011/137/CFSP concerning restrictive measures in view of the situation in Libya

Following Council Decision 2011/137/CFSP, in particular article 8 (2) thereof, in conjunction with article 31 (2) of the Treaty of the European Union, additional persons and entities listed in the annex to this Decision have been included in annex IV to Decision 2011/137/CFSP, one person has been removed from the lists in annexes II and IV, and the information relating to certain persons and entities on the lists in annexes I, II, III and IV to that Decision has been updated.

- Council Implementing Regulation (EU) No. 360/2011 of 12 April 2011 implementing article 16 (1) and (2) of Regulation (EU) No. 204/2011 concerning restrictive measures in view of the situation in Libya

In addition to Council Implementing Decision 2011/236/CFSP, the Council adopted a regulation implementing Regulation (EU) 204/2011 in order to legally enforce the asset freeze for the new European Union autonomous designations of persons and entities.

- Council Implementing Decision 2011/300/CFSP of 23 May 2011 implementing Decision 2011/137/CFSP concerning restrictive measures in view of the situation in Libya

Following Council Decision 2011/137/CFSP, in particular article 8 (2) thereof, in conjunction with article 31 (2) of the Treaty of the European Union, additional persons and entities listed in the annex to this Decision have been included in annexes II and IV to Decision 2011/137/CFSP.

- Council Implementing Regulation (EU) No. 502/2011 of 23 May 2011 implementing Regulation (EU) No. 204/2011 concerning restrictive measures in view of the situation in Libya

In addition to Council Implementing Decision 2011/300/CFSP, the Council adopted a Regulation implementing Regulation (EU) 204/2011 in order to legally enforce the asset freeze for the new EU autonomous designations of persons and entities.

- Council Decision 2011/332/CFSP of 7 June 2011 amending Decision 2011/137/CFSP concerning restrictive measures in view of the situation in Libya

Following Council Decision 2011/137/CFSP, additional entities have been included in the list of persons and entities subject to restrictive measures set out in annex IV to Decision 2011/137/CFSP. Moreover, Council Decision 2011/332/CFSP amends Decision 2011/137/CFSP in order to take into account specific arrangements for restrictive measures applicable to port authorities.

- Council Regulation (EU) No. 572/2011 of 16 June 2011 amending Regulation (EU) No. 204/2011 concerning restrictive measures in view of the situation in Libya

In accordance with Council Decision 2011/332/CFSP, the Council adopted a Regulation implementing the measures provided for in Council Decision 2011/332/CFSP which fall under the competence of the Union.

- Council Regulation (EC) No. 539/2001 of 15 March 2001 (and its subsequent amendments) — this Regulation requires nationals of Libya to be in possession of a visa when entering the European Union.

The above-mentioned Council Regulations are binding in their entirety and directly applicable in all member States of the European Union.[2]

2. National implementing measures

At the national level, the Portuguese Government, committed to the full implementation of resolution 1970 (2011), undertook inter-agency coordination procedures and circulated the resolution, along with its respective instructions for implementation, to all governmental departments involved in its comprehensive national application, as well as to other entities deemed relevant, such as the banking system. The competent authorities in the field of restrictive measures are the Ministry for Foreign Affairs and the Ministry of Finance.[3]

Portugal has the following national legislation which, together with Council Decision 2011/137/CFSP, provides the basis for the implementation and enforcement of restrictive measures:

- Law 11/2002 of 16 February 2002 sets out the Portuguese legal framework on penalties applicable to the infringement of sanctions imposed by the Security Council in its resolutions or by European Union regulations. According to this law, whoever breaches the sanctions imposed by the United Nations or the European Union will be punished with 3-5 years in prison.

Arms embargo

The import and export of arms and other related material, to and from a third country, requires a specific licence by the Portuguese Ministry of Defence. Licences are only granted after careful assessment against relevant criteria including, inter alia, the obligations under sanctions imposed by the United Nations, and will not be granted in breach of such sanctions.

[2] Regulation (EC) No. 539/2001 applies neither to Ireland nor to the United Kingdom.

[3] http://www.mne.gov.pt/mne/pt/AutMedidasRestritivas.htm.

To ensure strict enforcement of the sanctions regime, Portugal has adopted the following measures:

- Immediate suspension of all preparations for the Bilateral Cooperation in the Defence Activity Plan for 2011, that started during the III Portuguese-Libyan Mixte Commission that was held in Tripoli on 27 October 2010. All contacts with Libya in the context of the Defence 5+5 Initiative were also suspended.

- Suspension of all import and export licences of defence-related products to and from Libya by the competent Directorate of the Ministry of Defence (Directorate General for Defence Armoury and Infra-Structures, the entity that manages all international trade of military goods and technologies and related activities). This measure had an immediate impact on the two C-130 Libyan spacecrafts that were in OGMA SA for reparation, which were not returned to the Libyan Government, as requested.

Assets freeze

Regarding the freezing of funds, other financial assets and economic resources of persons and/or entities designated in the annex to resolutions 1970 (2011) and 1973 (2011), the resolutions were sent to the Ministry of Finance and to the Bank of Portugal. According to the above-mentioned Law 11/2002, funds, financial assets and other economic resources must be frozen as soon as the European Union or the Security Council list persons or entities as being subject to these targeted sanctions. This includes any action that, directly or indirectly, might enable funds to be within reach of any individual or legal entity mentioned in those international legal instruments (articles 1 and 2 of Law 11/2002). Hence, the financial institutions should freeze funds and economic resources as soon as the competent authorities forward the United Nations lists to them (lists contained in European Union regulations are directly applicable to all national institutions).

Travel ban

The Portuguese Government sent the list of designated individuals to the competent authorities. Until now, no requests for visas by the listed individuals have been received.

United Nations S/AC.52/2011/17

Security Council

Distr.: General
28 June 2011

Original: English

Security Council Committee established pursuant to resolution 1970 (2011) concerning the Libyan Arab Jamahiriya

Note verbale dated 21 June 2011 from the Permanent Mission of Brazil to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Brazil to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1970 (2011) concerning the Libyan Arab Jamahiriya and has the honour to refer to paragraph 25 of that resolution, which calls upon Member States to report to the Committee on the steps taken to implement effectively the relevant paragraphs of the resolution.

Brazil has incorporated the provisions of resolution 1970 (2011) into its national legislation through Decree No. 7460 of 14 April 2011. According to the Decree, Brazilian authorities are required, within their respective powers, to fulfil the provisions of the resolution.

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